IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

MFA.No. 416 of 2001()

OPMV.844/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA

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APPELLANT: PETITIONER:

PURUSHOTHAMAN, S/O.AYYAPPAN,
CHILAMPANKUNNEL HOUSE,
AMBALAKKAVALA BHAGOM, KATTAPPANA KARA
KATTAPPANA VILLAGE.

BY ADV. SRI.T.I.ABDUL SALAM

RESPONDENTS: RESPONDENTS:

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1. K.A.SHAJI, KARAKKUNNEL HOUSE, KARIKODE,
THODUPUZHA.

2. CHANDY @ SABU, THENNATTIL HOUSE,
METTUKUZHY BHAGOM, KATTAPPANA KARA,
KATTAPPANA VILLAGE.

3. THE ORIENTAL INSURANCE CO. LTD., THODUPUZHA,
BRANCH, REP. BY ITS MANAGER.

BY ADV. DR.ELIZABETH VARKEY (R3)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No. 416 of 2001

Dated this the 21st June, 2007.

J U D G M E N T

The petitioner in O.P.(M.V) No.844/1997, on the file of the Motor Accidents Claims Tribunal, Thodupuzha, is the appellant. On 5.5.1996, at about 1.30 p.m., the appellant was travelling in an auto rickshaw, driven by the second respondent. When the auto rickshaw reached near Ambalakkavala Bhagam, it over turned, and appellant sustained injuries. He filed a petition claiming an amount of Rs.75,000/= as compensation. The Tribunal found that the accident occurred due to the negligence of the driver of the offending vehicle. The appellant had sustained only minor injuries, the Tribunal held that he is entitled to get an amount of Rs.7200/= as compensation. The Insurer, M/s.Oriental Insurance Company, was directed to pay the amount. Challenging that part of the award fixing compensation, appellant has filed this appeal.

2. The appellant was aged about 51 years on the date of accident. Ext.A5 is the accident-cum-wound certificate of St.John's Hospital, Kattappana. It shows that the appellant has no external

injuries, but he had a contusion on his low back area. X-ray was taken, and it shows that there was a compound fracture of transverse process of L2 & L3. Ext.A6 is the medical certificate, which also conforms to the fact that the appellant had sustained fracture of transverse process of L2 & L3. So, the reasoning of the Tribunal that the petitioner had sustained only minor injuries is not correct. The fracture of Transverse process on Lumbar vertebra is not a minor injury. Hence, the quantum of compensation fixed is highly inadequate. The Tribunal awarded only an amount of Rs.5000/= for loss of amenities, pain and sufferings, towards future earning power and permanent disability. I am of the opinion that at least a consolidated amount of Rs.20,000/= ought to have been awarded on the above counts, in addition to the amount already awarded. So, the award passed has to be modified to that effect.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.20,000/= as additional compensation, in addition to the amount of Rs.7200/= already awarded by the Tribunal from the respondents, with 7%

interest from the date of petition, till the date of realisation. The respondents are directed to deposit the above amount. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No. 416 OF 2001

J U D G M E N T

Dated: 21st June, 2007.